



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,416	05/19/2005	Jaume Pinol Ribas	Q-87778	7473
23373	7590	10/02/2007	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			SHAHNAN SHAH, KHATOL S	
ART UNIT		PAPER NUMBER		
1645				
MAIL DATE		DELIVERY MODE		
10/02/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/535,416	RIBAS ET AL.
	Examiner	Art Unit
	Khatol S. Shahnan-Shah	1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 19 May 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 13-29 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) _____ is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) 13-29 are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

1. Applicants amendment of 5/19/2005 acknowledged. Claims 1-12 have been canceled. New claims 13-19 have been entered. Claims 13-29 are pending and under consideration.

Restrictions

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 13-19 are drawn to an immunogenic *Actinobacillus pleoropneumoniae* APP strain and a vaccine composition.

Group II, claim(s). 20-21 *Actinobacillus pleoropneumoniae* CECT 5985 strain and a vaccine composition.

Group III, claim(s) 22-23 *Actinobacillus pleoropneumoniae* CECT 5994 strain and a vaccine composition.

Group IV, claim(s) 24-29 are drawn to a method of obtaining an immunogenic *Actinobacillus pleoropneumoniae* APP strain.

3. The inventions listed as Groups I-V do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The special technical feature-linking groups I-IV appears to be the genes of *apxIA* and *apxIIA* of *Actinobacillus pleoropneumoniae*. However, Reimer et al. (Microbial Pathogenesis vol. 18, pp. 197-209 , 1995 and X reference of parent PCT application # PCT/EP 03/12839 , prior art of record) teach genes of *apxIA* and *apxIIA* of *Actinobacillus pleoropneumoniae* (see abstract and title). Therefore, the technical feature linking the inventions of groups I-IV does not constitute a special technical feature as defined by the PCT Rule 13.2, as it does not define a contribution over the prior art. As set forth above, each of group I-V has a special technical feature that is not required for the other groups.

The special technical feature of group I is a strain of *Actinobacillus pleropneumoniae* APP.

The special technical feature of group II is a strain of *Actinobacillus pleropneumoniae* CECT 5985.

The special technical feature of group III is a strain of *Actinobacillus pleropneumoniae* CECT 5994.

The special technical feature of group IV is a method of obtaining an organism.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Species Election

5. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

- a. If applicants elect group I, then there is additional election of species.
 - 1a. please choose one of the species genes from claims 16 or 18.
- b. If applicants elect group IV, then there is additional election of species.
 - 1b. please choose one of the species genes from claims 27 or 29.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

The species are shown to be distinct because they are drawn to a plurality of disclosed patentably distinct genes or sequences comprising structurally and functionally distinct molecules.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply

Art Unit: 1645

must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

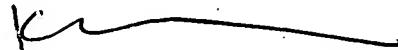
The following claim(s) is generic: 13, 20, 22 and 24.

Conclusion

6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khatol Shahnan-Shah whose telephone number is (571)-272-0863. The examiner can normally be reached on Monday-Friday 7:30 AM-5:00 PM If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery Siew can be reached on 571-272-0787.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Khatol Shahnan-Shah, B.S.,

Pharm, M.S.

Biotechnology Patent Examiner

Art Unit 1645

September 30, 2007



JEFFREY SIEW
SUPERVISORY PATENT EXAMINER